CITY COUNCIL AGENDA ITEM COVER MEMO

		Agenda Item Number
Meeting Type:	<u>Regular</u>	Meeting Date: 3/22/2012
Action Requeste Water Pollution	d By:	Agenda Item Type
Control		Resolution
Subject Matter:		
InfoNet Integra	tion for CMOM Managem	ent
9		
Exact Wording for	or the Agenda:	
A Division of AD	orizing the Mayor to enter S, L.L.C. for Engineering roject No. 65-12-SP18	r into an agreement with ADS Environmental Services – Services for InfoNet Integration for CMOM
Note: If amend	lment, please state tit	le and number of the original
Item to be consi	dered for: Action	Unanimous Consent Required: No
provide, allow		why it is recommended; what Council action will on that might be helpful.
Integration of C		S to meet EPA regulations in a Not to Exceed Ceiling
Associated Cost:		Budgeted Item: <u>Select</u>
MAYOR RECOMM	ENDS OR CONCURS: <u>Se</u>	<u>lect</u>
Department Head	Thomas Lawhdy	Date:

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Water Pollution Control Council Meeting Date: 3/22/2012

Department Contact: Tommy Lovelady

Phone # 256-883-3719

Contract or Agreement: Professional Services Agreement

Document Name: ADS-CMOM Management Project No. 65-12-SP18

City Obligation Amount:

\$123,885.00

Total Project Budget:

\$123,885.00

Uncommitted Account Balance:

0

Account Number:

02-8000-0815-1338

	Procurement Agreements Not Applicable	
Not Applicable		
	Grant-Funded Agreements	

Not	Grant Name:
<u>Applicable</u>	

Department	Signature	Date
1) Originating	Shave Cook	3-12-2012
2) Legal	March Cates	3/13/12
3) Finance	Smo)	3/15/12
4) Originating		
5) Copy Distribution		
a. Mayor's office (2 copies)		
b. Clerk-Treasurer (Original & 2 copies)		
c. Legal (1 copy)		

RESOLUTION NO. 12-

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and is hereby authorized, to enter into an agreement with ADS Environmental Services - A Division of ADS, L.L.C., in a Not to Exceed Ceiling Price of ONE HUNDRED TWENTY-THREE THOUSAND EIGHT HUNDRED EIGHTY-FIVE AND NO/100 DOLLARS (\$123,885.00) for Engineering Services for InfoNet Integration for CMOM Management, Project No. 65-12-SP18, in Huntsville, Alabama, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that document attached hereto and identified as "Agreement between City of Huntsville and ADS Environmental Services - A Division of ADS, L.L.C. for Engineering Services for InfoNet Integration for CMOM Management, Project No. 65-12-SP18" consisting of a total of fifteen (15) pages plus thirty-eight (38) additional pages consisting of Attachments 1-16, and the date of March 22, 2012 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED	this	the _	22nd	day of _	March	, 2012
					of the City Coof Huntsville,	
APPROVED	this	the	22nd	day of _	March	, 2012
				Mayor of t	the City of Hur	ntsville,

AGREEMENT BETWEEN CITY OF HUNTSVILLE, ALABAMA

AND

ADS ENVIRONMENTAL SERVICES – A DIVISION OF ADS, L.L.C.

FOR

ENGINEERING SERVICES FOR
INFONET INTEGRATION FOR CMOM MANAGEMENT

Project Number 65-12-SP18

March 22, 2012

President	f the City Council of the City of Huntsville, A	۱L
Date:	March 22, 2012	

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AGREEMENT BETWEEN CITY OF HUNTSVILLE, ALABAMA AND

ADS ENVIRONMENTAL SERVICES – A DIVISION OF ADS, L.L.C. FOR

ENGINEERING SERVICES FOR INFONET INTEGRATION FOR CMOM MANAGEMENT Project Number 65-12-SP18

THIS AGREEMENT made as of the 22nd day of March in the year 2012, by and between the CITY OF HUNTSVILLE, ALABAMA (hereinafter called OWNER), and ADS ENVIRONMENTAL SERVICES – A DIVISION OF ADS, L.L.C. (hereinafter called ENGINEER).

WITNESSETH, for the considerations hereinafter set forth, the parties hereto agree as follows:

ARTICLE 1 - ENGAGEMENT OF THE ENGINEER

The OWNER hereby engages the ENGINEER, and the ENGINEER hereby accepts the engagement to provide general engineering and consultation as a representative of the OWNER to include the following:

- 1.1 Professional engineering services for InfoNet Integration for CMOM Management, as further described in ARTICLE 2, and hereinafter called PROJECT.
- 1.2 By executing this Agreement, the ENGINEER represents to the OWNER that the ENGINEER is a professional qualified to act as the ENGINEER for the PROJECT and is licensed and certified to practice engineering by all public entities having jurisdiction over the ENGINEER and the PROJECT. The ENGINEER further represents to the OWNER that the ENGINEER will maintain all necessary licenses, certifications, permits or other authorizations necessary to act as ENGINEER for the PROJECT until the ENGINEER's remaining duties hereunder have been satisfied. The ENGINEER shall assign only qualified personnel to perform any service concerning the PROJECT. All services rendered by the ENGINEER for the PROJECT shall be performed by or under the immediate supervision of experienced and qualified professionals licensed, certified, and registered as appropriate in the State of Alabama possessing the expertise in the discipline of the service being rendered. The ENGINEER assumes full responsibility to the OWNER for the negligent acts, errors and omissions of its consultants or others employed or retained by the ENGINEER in connection with the PROJECT.
- 1.3 Execution of this Agreement by the ENGINEER constitutes a representation that the ENGINEER has become familiar with the PROJECT site and the local conditions under which the PROJECT is to be implemented. The ENGINEER agrees to provide all necessary engineering services required to professionally accomplish the ENGINEER's defined scope of services.

<u>ARTICLE 2 – DESIGN SERVICES OF THE ENGINEER</u>

- **2.1** ENGINEER shall provide for OWNER professional engineering services for InfoNet Integration for CMOM Management.
- 2.2 These services shall include consultation and advice; customary civil, structural, mechanical and electrical engineering design services; and Architectural services incidental thereto, as outlined herein and further described in the SCOPE OF SERVICES, ATTACHMENT 1.

- 2.3 Upon the OWNERS authorization, the ENGINEER shall prepare construction documents consisting of drawings and specifications setting forth in detail the requirements for construction of the PROJECT. The ENGINEER warrants that such construction documents are accurate, coordinated and adequate for the construction and in conformity and comply with applicable laws, codes and regulations. Products specified for use shall be readily available unless written authorization to the contrary is given by the OWNER. Products or materials specified by the ENGINEER that are available from only one source shall be justified in writing by the ENGINEER in order to meet applicable federal, state, or local procurement or bid requirements.
- 2.4 The ENGINEER shall prepare appropriate bid alternates as necessary in order to assure that the PROJECT can be awarded within the PROJECT budget limitations.
- 2.5 The ENGINEER shall serve as the OWNER's professional representative in those portions of the PROJECT to which this Agreement applies and shall consult with and advise the OWNER during the performance of these services.
- The ENGINEER shall incorporate into its design, and into its final work products, the requirements contained within the OWNER's engineering standards, standard specifications, and design manuals referenced in ATTACHMENT 4. The requirements of the State of Alabama Department of Transportation design standards shall be reviewed for applicability and incorporated into portions of the work where joint participation between the OWNER and the State is applicable. When conflicts are noted between the OWNERS requirements and standards of others, the OWNERS standards shall take precedent. Discrepancies shall be brought to the attention of the OWNER. Deviations from OWNER's requirements shall be identified to the OWNER by the ENGINEER in writing prior to incorporating the changes.
- 2.7 The ENGINEER shall obtain all Planning Commission approvals with regard to location, character and extent, as required.
- 2.8 The ENGINEER shall obtain a Utility Project Notification Form (11) from all affected utilities on the project by the 60% design review stage. Acceptance shall be provided as a signed original by all affected parties at the 90% design review stage.
- 2.9 The ENGINEER shall promptly correct, or have corrected, any errors, omissions, deficiencies or conflicts in the ENGINEER's work product or that of his sub-contractors/sub-consultants, without additional compensation for time, reproduction or distribution.
- 2.10 During the process of design and preparation of the construction documents, the ENGINEER shall review with the OWNER the construction documents, the estimate of probable construction cost, schedule, and other design services issues. Such review shall be, at a minimum, as outlined in ATTACHMENT 5 as 0%, 30%, 60%, and 90% completion stage. Following such reviews, the ENGINEER shall make any appropriate revisions thereto to assure compliance with the OWNER's requirements.
- 2.11 Field surveying work is required and shall include P.K. Nails or other permanent stationing markings as well as staking of right-of-way, easements and parcels of land acquired by the City of Huntsville. The Engineer/Land Surveyor shall set property corners at the new right-of-way to meet "Standards of Practice for Surveying in the State of Alabama" as required by the Alabama Board of Registration for Engineering and Land Surveyors. Easements shall be staked as requested by the City of Huntsville. An estimate for these services shall be included with the original proposal, Attachment "1", but final adjustment will be based on time and materials paid under Article 4 for Additional Services. Permanent stationing markings and right-of-way staking shall be performed one time as part of the design contract. Easement staking and re-staking station markings and right-of-way will be based on time and materials paid under Article 4 for Additional Services.
- 2.12 The ENGINEER shall comply with the City of Huntsville Tree Ordinance and carry the requirements referenced therein with deliverables (drawings, specifications, etc.) in accordance with Section 27-57 of the City of Huntsville Code of Ordinances (Ord. No. 04-45, §13, 2-12-2004).

- 2.13 The ENGINEER shall prepare the prebid agenda after obtaining comments from stakeholders such as affected utilities, City of Huntsville Construction Project Engineer and Inspector(s), and other City of Huntsville departments as applicable. The ENGINEER shall moderate the prebid meeting, prepare meeting minutes, make clarifications, prepare addendums, and distribute to bidders.
- A valid City of Huntsville license shall be maintained throughout the term of this contract. Additionally, the engineering firm shall be required to obtain and pay for all other federal, state or local permits, licenses, and fees which may be necessary or required in order to perform the work detailed herein

CONSTRUCTION ADMINISTRATION SERVICES

OMITTED

ARTICLE 4 - ADDITIONAL SERVICES

The following services of the ENGINEER are not included in Articles 2. Nevertheless, the ENGINEER shall provide such services if authorized in writing by the OWNER, and they shall be paid for by the OWNER as provided in Article 7.

- Making revision in drawings, specifications or other documents when such revisions are inconsistent with written direction by the OWNER previously given, are required by the enactment of revision of codes, laws or regulations subsequent to the preparation of such documents and not reasonably anticipated, or are due to other causes not within the control or responsibility of the ENGINEER, either in whole or in part.
- **4.2** Preparing drawings, specifications and supporting data in connection with change orders, provided that such change orders are issued by the OWNER due to causes not within the control or responsibility of the ENGINEER, either in whole or in part.
- 4.3 Providing additional services for repair or replacement of work damaged by acts of God or other cause during construction provided that such services are required by causes not the responsibility of the ENGINEER, either in whole or in part.
- Providing services not otherwise required herein which are made necessary solely by the default of the Contractor or major defects or deficiencies in the work of the contractor.
- **4.5** Providing expert witness services and other services arising out of claims.
- **4.6** Provide services to stake site during construction.
- 4.7 Provide right-of-way/property staking (see Section 2).

ARTICLE 5 - RESPONSIBILITIES OF OWNER

The OWNER, without cost to the ENGINEER, will perform the following in a timely manner so as not to delay the services of the ENGINEER:

- 5.1 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the PROJECT including previous reports and any other data relative to design or construction of the PROJECT.
- Provide all criteria and full information as to OWNER's requirements for the PROJECT, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations. The OWNER shall also furnish copies of all design and construction standards, which OWNER will require to be included in the drawings and specifications.

- 5.3 Assist the ENGINEER as necessary in acquiring access to and making all provisions for the ENGINEER to enter upon public and private lands as required for the ENGINEER to perform the work under this agreement.
- Designate in writing a person to act as the OWNER's representative with respect to the work to be performed under this Agreement, such person to have complete authority to transmit instructions, receive information, interpret and define the OWNER's policies and decision with respect to materials, equipment elements and systems pertinent to the work covered by this Agreement. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER, obtain advice of an attorney, insurance counselor and other consultants as OWNER determines appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.
- The OWNER will intercede on the ENGINEER's behalf when data from, or reviewed by third parties is not on schedule through no fault of the ENGINEER
- The OWNER's review of any documents prepared by the ENGINEER or its consultants shall be solely for the purpose of determining whether such documents are generally consistent with the OWNER's intent. No review of such documents shall relieve the ENGINEER of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its work product.

ARTICLE 6 - PERIOD OF SERVICES

6.1 The ENGINEER shall commence services pursuant to this agreement as of March 23, 2012. The final completion date for the completion of design services shall be June 23, 2013, as outlined in Article 2.

The ENGINEER shall perform these services with reasonable diligence and expediency consistent with sound professional practices. The ENGINEER shall include in his schedule an allowance for time required for OWNER's review of submissions and for approvals of authorities having jurisdiction over the PROJECT. When approved by the OWNER, the schedule shall not be exceeded by the ENGINEER, except for cause.

If the ENGINEER becomes aware of delays due to time allowances for review and approval being exceeded, delay by the OWNER, the OWNER's consultants, or any other reason beyond the ENGINEER's control, which may result in the schedule of performance of the ENGINEER's services not being met, the ENGINEER shall promptly notify the OWNER. If the OWNER becomes aware of any delays or other causes that will affect the ENGINEER's schedule, the OWNER shall promptly notify the ENGINEER. In either event, the ENGINEER's schedule for performance of its services shall be equitably adjusted.

ARTICLE 7 - PAYMENT TO THE ENGINEER

7.1 BASIC SERVICES

The OWNER shall compensate the ENGINEER for services rendered pursuant to this Agreement, excepting those services described as Additional Services in Article 4 of this Agreement, by payment in a not to exceed ceiling price of ONE HUNDRED TWENTY-THREE THOUSAND EIGHT HUNDRED EIGHTY-FIVE AND NO/100 DOLLARS (\$123,885.00) for professional services described in Article 2. Additional services of the ENGINEER as described in Article 4, if any, shall be compensated on an hourly basis in accordance with Attachment 6.

7.2 NOT TO EXCEED (NTE) CEILING PRICE

NTE Ceiling price. The City of Huntsville (COH) will not be obligated to pay the Contractor any amount in excess of the NTE ceiling price as per Attachment "1", and the Contractor shall not be obligated to continue performance if to do so would exceed the NTE ceiling price set forth in the referenced

attachment, unless and until the COH notifies the Contractor in writing that the NTE ceiling price has been increased and specifies in the notice a revised NTE ceiling that shall constitute the NTE ceiling price for performance under this contract. When and to the extent that the NTE ceiling price set forth in the referenced attachment has been increased, any hours expended and material costs incurred by the Contractor in excess of the NTE ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the NTE ceiling price.

PAYMENT SUMMARY

Engineering Services -not to exceed ceiling price of

\$123,885.00

TOTAL CONTRACT AMOUNT:

\$123.885.00

ARTICLE 8 - GENERAL PAYMENT PROCEDURE

8.1 INVOICES

- 8.1.1 The ENGINEER shall submit monthly invoices to the Administrative Officer in the Engineering Department for the basic services described under Articles 2 and 4 for the design of the PROJECT. Invoices must include the City of Huntsville project name and number, dates of services, contract amount, previous billings and current billing. Along with each invoice, the ENGINEER must submit a consultant progress report known as Attachment 7. No payment will be made without the consultant progress report completed and attached. Monthly progress reports shall be submitted monthly even if no request for payment is made. If services under Article 4 are included in the invoice for additional services not included under the lump sum provisions, the classification and hours of such persons rendering the services shall be attached to the invoice.
- 8.1.2 The signature of the ENGINEER on the invoice shall constitute the ENGINEER's representation to the OWNER that the services indicated in the invoice have progressed to the level indicated, have been properly and timely performed as required herein, that the reimbursable expenses included in the invoice have been reasonably incurred, that all obligations of the ENGINEER covered by prior invoices have been paid in full, and that, to the best of the ENGINEER's knowledge, information and informed belief, the amount requested is currently due and owing, there being no reason known to the ENGINEER the payment of any portion thereof should be withheld. Submission of the ENGINEER's invoice for final payment and reimbursement shall further constitute the ENGINEER's representation to the OWNER that, upon receipt from the OWNER of the amount invoiced, all obligations of the ENGINEER to others, including its consultants, incurred in connection with the PROJECT, will be paid in full.

8.2 TIME FOR PAYMENT

The OWNER shall make payment for services in Articles 2 and 4 within 60 days of receipt of valid invoice.

8.3 OWNER'S RIGHT TO WITHHOLD PAYMENT

In the event the OWNER becomes credibly informed that any representations of the ENGINEER, provided pursuant to Article 8.1.2, are wholly or partially inaccurate, the OWNER may withhold payment of sums then or in the future otherwise due to the ENGINEER until the inaccuracy, and the cause thereof, is corrected to the OWNER's reasonable satisfaction. Additionally, failure by the ENGINEER to supply substantiating records shall be reason to exclude related costs from the amounts which might otherwise be payable by the OWNER to the ENGINEER.

8.4 REIMBURSABLE EXPENSES

8.4.1 In addition to the requirements set forth in 8.1 above, invoices for reimbursable expenses shall include such documentation as the OWNER may require. Reasonable expenses are limited to the following expenses:

- (a) Transportation outside the immediate Huntsville area (50 mile radius) approved in advance by the OWNER in writing and incurred in connection with the PROJECT:
- (b) Charges for long-distance communications;
- (c) Fees paid for securing approval of authorities having jurisdiction over the PROJECT,
- (d) Actual costs of reproduction for items in excess of those included in the required services;
- (e) Postage and handling charges incurred for drawings, specifications and other documents.
- **8.4.2** The ENGINEER shall set forth with particularity on its invoice the nature and cost of the expense item being billed, and attach to its invoice the written authorization, if any, required for such item; and shall bill expenses at actual cost or prevailing rate and without the addition of administrative charge, any multiple or surcharge.

8.5 W-9 TAXPAYER FORM

All ENGINEERING FIRMS are required to submit a Federal Tax Form W-9 to City of Huntsville at the time a contract is awarded. No payments of invoices can be made until this W-9 Tax Form has been properly submitted. A copy of the W-9 Tax Form can be requested from the OWNER or at the following website: www.irs.ustreas.gov/pub/irs-pdf/fw9.pdf

ARTICLE 9 - GENERAL CONSIDERATIONS

9.1 GENERAL

OWNER and ENGINEER agree that the following sections and provisions shall apply to the work to be performed under this Agreement and that such provisions shall supersede any conflicting provisions of this Agreement.

9.2 SUB-CONTRACTED SPECIALIZED SERVICES

The ENGINEER may sub-contract specialized services required of the PROJECT to competent and experienced sub-consultants approved by the OWNER in writing. As a prime professional, the ENGINEER shall act as OWNER's representative for contracting, directing, and managing the services of sub-consultants. The OWNER shall have the right to reject any consultant provided that the OWNER raises a timely objection. At the time of the execution of this Agreement, the parties anticipate that the consultants listed in Attachment "8" hereto will be retained by the ENGINEER to provide services with respect to the PROJECT. Subcontracted services are limited to no more than 5% administration expense payable to the ENGINEER.

9.3 CLARIFICATION OF WORK

If reviewing agencies raise questions regarding the work of ENGINEER, OWNER will participate in such meetings as deemed necessary to explain and clarify this work.

9.4 CANCELLATION OF WORK

This Agreement may be canceled by either party in the event of default or violation of any of the provisions of this Agreement by the other party, by written notice delivered to the address of record by registered mail giving ten (10) days advance notice of the intention to cancel. In the event of cancellation of this Agreement, ENGINEER shall be paid for all work performed to date of cancellation, less any loss, damage, or liability incurred by reason of default of ENGINEER and all records, data, parameters, design calculations and other information collected or obtained in the performance of this Agreement shall be delivered to OWNER.

9.5 CHANGES

9.5.1 The OWNER may, at any time by written order, make changes within the general scope of the Agreement in the services to be provided. If such changes cause an increase or decrease in

ENGINEER's cost of, or time required for performance of any services, whether or not changed by any order, an equitable adjustment shall be made and the Agreement shall be modified in writing accordingly. Upon notification of change, ENGINEER must assert any claim of ENGINEER for adjustment in writing within 30 days from the date of receipt unless OWNER grants a further period of time.

9.5.2 If findings in any phase of this PROJECT significantly alter the scope of work for subsequent phases, or if regulations are changed resulting in a scope of work change for any phase, engineering fees set forth in Article 7 may be renegotiated by the OWNER and ENGINEER.

9.6 ENGINEER'S RECORDS

Documentation accurately reflecting services performed and the time expended by the ENGINEER and his personnel and records of reimbursable expenses shall be prepared concurrently with the performance of the services and shall be maintained by the ENGINEER. The ENGINEER shall maintain record copies of all written communications, and any memoranda of verbal communications related to the PROJECT. All such records and documentation shall be maintained for a minimum of five (5) years after the PROJECT date of final completion or for any longer period of time as may be required by law or good practice. If the ENGINEER receives notification of a dispute or of pending or commencement of litigation during this five-year period, the ENGINEER shall continue to maintain all PROJECT records until final resolution of the dispute or litigation. The ENGINEER shall make such records and documentation available to the OWNER upon notice and shall allow the authorized representative(s) of the OWNER to inspect, examine, review and copy the ENGINEER's records at the OWNER's reasonable expense.

9.7 USE AND OWNERSHIP OF DOCUMENTS

All rights of ownership, copyrights, construction documents, including all drawings, specifications and other documents, electronic media, or things prepared by or on behalf of the ENGINEER for the PROJECT are hereby transferred to the OWNER and shall be the sole property of the OWNER and are free of any retention rights of the ENGINEER. The ENGINEER hereby grants to the OWNER an unconditional right to use or to refer to, for any purpose whatsoever, the construction documents and any other documents or electronic media prepared by or on behalf of the ENGINEER for the PROJECT, free of any copyright claims, trade secrets or other proprietary rights with respect to such documents. The ENGINEER shall be permitted to retain copies thereof for its records. The ENGINEER's documents and other work products are not intended or represented to be suitable for re-use by OWNER or others on extensions of the PROJECT or on any other PROJECT. Any re-use without specific written verification or adaptation by ENGINEER will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER shall indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses including attorneys' fees arising out of, or resulting from, such reuse by the OWNER; provided however, that this agreement to indemnify and save harmless shall not apply to any reuse of documents retained by, or through, the contractor.

9.8 ESTIMATE OF CONSTRUCTION COST

Since ENGINEER has no control over the construction cost of labor, materials, or equipment, or over the construction contractor(s) methods of determining prices, or over competitive bidding or market conditions, his opinion of probable PROJECT cost or construction cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry; but, ENGINEER cannot and does not guarantee that proposals, bids or construction costs will not vary from opinions of probable cost prepared by him. If OWNER wishes greater assurance as to the construction cost, he will employ an independent cost estimator.

9.9 TERMINATION FOR CAUSE

This Agreement may be terminated by either party upon seven (7) days written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination.

9.10 TERMINATION BY THE OWNER WITHOUT CAUSE

The OWNER may terminate this Agreement without cause upon seven (7) days' written notice to the ENGINEER. In the event of such a termination without cause, the ENGINEER shall be compensated for all services performed prior to termination, together with Reimbursable Expenses incurred. In such event, the ENGINEER shall promptly submit to the OWNER its invoice for final payment and reimbursement which invoice shall comply with the provisions of Paragraph 8.1

ARTICLE 10 - INDEMNITY AND INSURANCE

10.1 INSURANCE

The ENGINEER shall carry insurance of the following kinds and amounts in addition to any other forms of insurance or bonds required under the terms of the contract specifications. The ENGINEER shall procure and maintain for the duration of the job until final acceptance by the OWNER, or as later indicated, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the ENGINEER, his agents, representatives, employees or subcontractor.

10.2 MINIMUM SCOPE OF INSURANCE:

A. General Liability:

Insurance shall be written on an occurrence basis. Claims-made coverage will be accepted only on an exception basis after the OWNER's approval. The same insurance company should write General Liability Coverage and OWNERs ENGINEERs Protective Insurance.

B. Commercial General Liability

Products and Completed Operations Contractual Personal Injury Explosion, Collapse and Underground Broad Form Property Damage

C. Professional Liability:

Insurance may be written on a "claims-made" basis, providing coverage for negligent acts, errors or omissions in the performance of professional services. Coverage shall be maintained for a discovery and reporting period of no less than five (5) years after completion of the professional services and Certificates of Insurance shall be submitted to the OWNER on a yearly basis during this time frame. Coverage shall be no less comprehensive than that which is carried by at least 25% of the registered engineers or engineering firms contracting in the State of Alabama. Such coverage shall be carried on a continuous basis including prior acts coverage to cover the subject PROJECT. The professional liability insurance shall contain contractual liability coverage.

D. Automobile Liability:

Business Automobile Liability providing coverage for all owned, hired and non-owned autos. Coverage for loading and unloading shall be provided under either automobile liability or general liability policy forms.

E. Workers' Compensation Insurance:

Statutory protection against bodily injury, sickness or disease or death sustained by employee in the scope of employment. Protection shall be provided by a commercial insurance company or a recognized self-insurance fund authorized before the State of Alabama Industrial Board of

Relations. "Waivers of Subrogation" in favor of the OWNER shall be endorsed to Workers' Compensation Insurance.

F. Employers Liability Insurance:

Covering common law claims of injured employees made in lieu of or in addition to a worker's compensation claim.

10.3 MINIMUM LIMITS OF INSURANCE:

A. General Liability:

Commercial General Liability on an "occurrence form" for bodily injury and property damage:

\$ 2,000,000 General Aggregate Limit

\$ 2,000,000 Products - Completed Operations Aggregate

\$ 1,000,000 Personal & Advertising Injury

\$ 1,000,000 Each Occurrence

B. Professional Liability:

Insurance may be made on a "claims-made" basis:

\$ 500,000 Per Claim - Land Surveyors

\$ 1,000,000 Per Claim - Other Professionals

C. Automobile Liability:

\$ 1,000,000 Combined Single Limit per accident for bodily injury and property damage.

D. Workers' Compensation:

As required by the State of Alabama Statute

E. Employers Liability:

\$ 1,000,000 Bodily Injury by Accident or Disease

\$ 1,000,000 Policy Limit by Disease

10.4 OTHER INSURANCE PROVISIONS:

The OWNER is hereby authorized to adjust the requirements set forth in this document in the event it is determined that such adjustment is in the OWNER's best interest. If the insurance requirements are not adjusted by the OWNER prior to the OWNER's release of specifications with regard to the PROJECT in question, then the minimum limits shall apply. The City of Huntsville/OWNER shall be named on the policies of general liability and automobile insurance and on the certificate of insurance as an Additional Insured. Additional Insured status on the Commercial General Liability policy shall be through ISO Additional Endorsement CG 20 10 11 85 or equivalent and coverage shall be afforded on a primary basis.

The policies are to contain, or be endorsed to contain, the following provisions:

A. All Coverage:

The ENGINEER is responsible to pay all deductibles. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewal or materially changed by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the OWNER. Cancellation of coverage for non-payment of premium will require ten (10) days written notice to the OWNER.

10.5 ACCEPTABILITY OF INSURERS:

Insurance is to be placed with insurers authorized by the State of Alabama with an A. M. Best rating of A-V or better.

10.6 VERIFICATION OF COVERAGE:

The OWNER shall be indicated as a Certificate Holder and the ENGINEER shall furnish the OWNER with Certificates of Insurance reflecting the coverage required by this document. The A. M. Best rating and deductibles, if applicable, shall be indicated on the Certificate of Insurance for each insurance policy. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf and must be an original signature. Certificates signed using digital signatures will not be accepted. All certificates are to be received and approved by the OWNER before work commences. The OWNER reserves the right to require complete, certified copies of all required insurance policies at any time.

10.7 CONSULTANTS AND/OR SUBCONTRACTORS WORKING FOR THE ENGINEER:

The ENGINEER shall furnish separate certificates and/or endorsements for each subcontractor and/or consultant showing insurance of the same type or types and to the extent of the coverage set forth in this Article 10.

10.8 HOLD HARMLESS AGREEMENT:

A. Other Than Professional Liability Exposures:

The ENGINEER, to the fullest extent permitted by law, shall indemnify and hold harmless the OWNER, its elected and appointed officials, employees, agents, and representatives against all claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to personal injury, including bodily injury sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting there from, and (2) is caused by any negligent act or omission of the ENGINEER or any of their consultants, or anyone directly or indirectly employed by them or anyone for whose acts they are legally liable. Such obligation should not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or person, described in this paragraph.

B. Professional Liability:

The ENGINEER agrees, to the fullest extent permitted by law, to defend, protect, indemnify and hold harmless the OWNER, its elected and appointed officials, officers, directors, employees, agents, and representatives from and against any and all liability, claims, demands, damages, loss, costs, fees, and expenses (including actual fees and expenses of attorneys, expert witnesses, and other consultants) actually or allegedly arising out of, or resulting from, the professional services of the ENGINEER or the ENGINEER's consultants, subcontractors, or suppliers, including, without limitation, any breach of contract or any negligent acts, errors, or omissions in the performance of the professional services provided pursuant to or as a result of this Agreement. Neither, the OWNER nor the ENGINEER shall be obligated to indemnify the other party in any manner whatsoever for the other parties own negligence. The OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the ENGINEER, its officers, directors, employees and sub consultants against all damages, liabilities or cost including reasonable attorney's fees and defense cost, to the extent caused by the OWNER's negligence acts in connection with the PROJECT and acts of its contractors, subcontractors, or consultants or anyone for whom the client is legally liable.

To the fullest extent permitted by law, the ENGINEER shall defend, protect, indemnify, and hold harmless the OWNER, its elected and appointed officials, officers, directors, employees, agents, and representatives from and against any and all liability, claims, demands, damages, loss, costs, fees and expenses (including actual fees and expenses of attorneys, expert witnesses, and other

consultants) for infringement of patent rights, copyrights, or other intellectual property rights, except with respect to designs, processes or products of a particular manufacturer expressly required by the OWNER in writing. If the ENGINEER has reason to believe the use of a required design, process or product is an infringement of a patent, the ENGINEER shall be responsible for such loss unless such information is promptly given to the OWNER.

ARTICLE 11- MISCELLANEOUS PROVISIONS

11.1 GOVERNING LAW

This Agreement shall be governed by the law of the State of Alabama.

11.2 INTENT AND INTERPRETATION

- 11.2.1 The intent of this contract is to require complete, correct and timely execution of the work. Any work that may be required, implied or inferred by the contract documents, or any one or more of them, as necessary to produce the intended result shall be provided by the ENGINEER.
- 11.2.2 This contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one contract document shall be considered as required by the contract.
- 11.2.3 When a word, term or phrase is used in this contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the engineering industry; and third, if there is no generally accepted meaning in the engineering industry, according to its common and customary usage.
- 11.2.4 The words "include", "includes", or "including", as used in this contract, shall be deemed to be followed by the phrase, "without limitation".
- 11.2.5 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this contract.
- 11.2.6 Words or terms used as nouns in this contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

11.3 TIME IS OF THE ESSENCE

Time limitations contained herein, or provided for hereby, are of the essence of this Agreement. The ENGINEER understands and acknowledges that time is of the essence in completion of the PROJECT and that the OWNER will incur damages if the PROJECT is not completed on time.

11.4 SUCCESSORS AND ASSIGNS

The ENGINEER shall not assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the OWNER. Subject to the provisions of the immediately preceding sentence, the OWNER and the ENGINEER, respectively, bind themselves, their successors, assigns and legal representatives to the other party to this Agreement and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body that may be party hereof, nor shall it be construed as giving any rights or benefits hereunder to anyone other than OWNER and ENGINEER.

11.5 NO THIRD-PARTY BENEFICIARIES

This Agreement shall inure solely to the benefit of the parties hereto and their successors and assigns. Nothing contained herein is intended to or shall create a contractual relationship with, or any rights in

favor of, or any cause of action in favor or, any third party, against the OWNER or the ENGINEER.

11.6 INTELLECTUAL PROPERTY/ CONFIDENTIALITY

All information, documents, and electronic media furnished by the OWNER to the ENGINEER belong to the OWNER, are considered proprietary and confidential, unless otherwise indicated by the OWNER, and are furnished solely for use on the OWNER's PROJECT. Such information, documents, and electronic media shall be kept confidential by the ENGINEER, shall only be released as necessary to meet official regulatory requirements in connection with the PROJECT, and shall not be used by the ENGINEER on any other PROJECT or in connection with any other person or entity, unless disclosure or use thereof in connection with any matter other than services rendered to the OWNER hereunder is specifically authorized in writing by the OWNER in advance.

11.7 SUBCONTRACT REQUIREMENTS

The ENGINEER shall include the terms and conditions of Articles 10 and 11 of this Agreement in every subcontract or agreement with a consultant for this PROJECT so that these terms and conditions shall be binding upon each subcontractor or consultant.

11.8 NOTICES

Unless otherwise provided, all notices shall be in writing and considered duly given if the original is hand delivered; if delivered by telex, facsimile, or tele-copy; or is sent by U.S. Mail, postage prepaid. All notices shall be given to the addresses set forth above. Notices, hand delivered or delivered by telex, facsimile, or tele-copy shall be deemed given the next business day following the date of delivery. Notices given by U.S. Mail shall be deemed given as of the second business day following the date of posting.

11.9 STRICT COMPLIANCE

No failure of the OWNER to insist upon strict compliance by the ENGINEER with any provision of this Contract for Professional Services shall operate to release, waive, discharge, modify, change or affect any of the ENGINEER's obligations.

11.10 WAIVER

No provision of this Agreement may be waived except by written agreement of the parties. A waiver of any provision on one occasion shall not be deemed a waiver of that provision on any subsequent occasion, unless specifically stated in writing. A waiver of any provision shall not affect or alter the remaining provisions of this Agreement.

11.11 SEVERABILITY

If any provision of this Agreement, or the application thereof, is determined to be invalid or unenforceable, the remainder of that provision and all other provisions of this Agreement shall remain valid and enforceable.

11.12 ETHICS

The ENGINEER shall not offer or accept any bribes or kickbacks from or to any manufacturer, consultant, trade contractor, subcontractor, supplier or any other individual or entity in connection with the PROJECT. The ENGINEER shall not confer on any governmental, public or quasi-public official having any authority or influence over the PROJECT any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised. The ENGINEER shall not, without the express written permission of the OWNER, engage or recommend to the OWNER engagement of any consultant, trade contractor, subcontractor, or supplier to provide services on behalf of the ENGINEER, OWNER or PROJECT in which the ENGINEER has a direct or indirect proprietary or other pecuniary interest; or call for the use of or by exclusion require or recommend the use of products, materials, equipment, systems, processes or procedures in which the ENGINEER or in which any consultant, trade contractor, subcontractor, or supplier of the ENGINEER has a direct or indirect proprietary or other pecuniary interest. Without prior notification and written approval of the OWNER, the ENGINEER and

the ENGINEER'S subconsultants shall not offer services to the OWNER'S contractor.

11.13 ALABAMA IMMIGRATION ACT

Compliance with the requirements of the (Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2012-535, Code of Alabama (1975) § 31-13-1 through 31-13-30, commonly referred to as the Alabama Immigration Law, is required for City of Huntsville, Alabama contracts as a condition of the contract performance. As a condition of this agreement, pursuant to Act No. 2012-535, Code of Alabama (1975) § 31-13-1 through 1-13-30, compliance with this requirement shall be done by the ENGINEER by completion of the "City of Huntsville, Alabama Report of Ownership Form" listed as Attachment 2 in this agreement and returning the completed form to the Engineering Division either by fax to 256/427-5325 to the attention of Mary Hollingsworth, email to Mary.Hollingsworth@huntsvilleal.gov, hand delivery or mail to: City of Huntsville Engineering Division, P. O. Box 308, Huntsville, AL 35804. The form shall be returned at the time of the signing of the contract by the ENGINEER and must be submitted before the contract is presented to the City of Huntsville City Council for approval.

11.14 E-VERIFY - NOTICE

The Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2012-535, Code of Alabama (1975) § 31-13-1 through 31-13-30" (also known as and hereinafter referred to as "the Alabama Immigration Act") is applicable to contracts with the City of Huntsville. As a condition for the award of a contract and as a term and condition of the contract with the City of Huntsville, in accordance with §31-13-9 (a) of the Alabama Immigration Act, any business entity or employer that employs one or more employees shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien and shall attest to such by sworn affidavit signed before a notary. Such business entity or employer shall provide a copy of such affidavit to the City of Huntsville as part of its bid or proposal for the contract along with a copy of the Memorandum of Understanding as documentation establishing that the business entity or employer is enrolled in the E-Verify program. The required affidavit form for the business entity and for sub-consultants/business entities employed by the contracting business entity are included as Attachment 3 in this contract. The original affidavit for your business entity must be returned to the City of Huntsville, the affidavit for the subcontractors should be kept on file in your office, and be made available to the city if requested.

During the performance of the contract, such business entity or employer shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. The business entity or employer shall assure that these requirements are required of every subcontractor in accordance with §31-13-9(c) and shall maintain records that are available upon request by the City, state authorities or law enforcement to verify compliance with the requirements of the Alabama Immigration Act. Failure to comply with these requirements may result in breach of contract, termination of the contract or subcontract, and possibly suspension or revocation of business licenses and permits in accordance with §31-13-9 (e) (1) & (2) or in the case of a subcontractor, in accordance with §31-13-9 (f) (1) & (2).

11.15 ENTIRE AGREEMENT

This Agreement represents the entire agreement between the OWNER and the ENGINEER and supersedes all prior communications, negotiations, representations or agreements, either written or oral. This agreement may be amended only by written instrument signed by both OWNER and ENGINEER.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

OWNER: CITY OF HUNTSVILLE	ENGINEER: ADS ENVIRONMENTAL SERVICES-A DIVISION OF ADS, L.L.C.
BY:Tommy Battle	BY: A PLACE
TITLE: Mayor	TITLE: Treasurer
ATTEST:	ATTEST: Jeckial Hexellockes
Given under my hand thisday	Given under my hand this & day
Of,2012.	Of March ,2012.
Notary Public	Notary Public
My commission expires	My commission expires Public State of Alabama at large My commission Expires: Feb 3, 2015 BONDED THRU NOTARY PUBLIC UNDERWRITERS

ATTACHMENT 1 SCOPE OF SERVICES

(Refer to Letter dated February 16, 2012 from Luis Mijares to Mark Huber and attachments).



1300 Meridian Street. Suite 3000 • Huntsville. Alabama 30801 PHONE: 256.430.6494 • FAX: 256.430.6496

www.adsenv.com

A DIVISION OF ADS LLC

February 16, 2012

Mr. Mark Huber Superintendent Technical Services & Environmental Engineering City of Huntsville Water Pollution Control 1800 Vermont Road Huntsville, TN 35802

RE: InfoNet integration for CMOM management

Dear Mr. Huber,

Enclosed is the ADS Environmental Services' scope of work and pricing for professional services for the above referenced project. If you have any questions, please do not hesitate to call me at the numbers listed above. The contract period should be 15 months from Notice to Proceed.

Sincerely,

Luis Mijares

Senior Business Development Manager

Attachment

Concurrence:

City of Huntsville Water Pollution Control



Professional Services InfoNet Integration and Maintenance for CMOM Management

Scope and Pricing



February 2012

1. Project Objective

ADS Environmental Services will support the InfoNet system established for the Water Pollution Control Division and will continue to provide support consolidation and streamlining of databases used for CMOM management. The system will house all of the information in one location available to authorized users throughout WPC, facilitating information transfer and updates. InfoNet's GIS based display capability will make its use more intuitive and user friendly than the varied databases in use today. The system's query and reporting capabilities will allow management to select desired parameters for reports that will facilitate CMOM reporting and compliance management.

2. Scope of Work

The following scope of work will be completed during this project:

- ADS will provide the yearly support for one user's and four viewer licenses to include telephone support and upgrades as they become available.
- ADS will continue to support the onsite implementation and consolidation of databases in use now and their interface with the InfoNet server and GIS system.
- ADS will continue to optimize and streamline the system for WPC use providing the report and query creation, data input and maintenance processes and instruct WPC personnel on their use.
- ADS will provide one training configuration session with software and project engineers for the benefit of WPC's staff and to customize the database and queries for improved application in WPC's Standard Operating Procedure and daily application.
- ADS will supply up to 500 hours of support by a licensed and experienced engineer and training for WPC and other designated personnel, billable as utilized through the duration of the contract.

3. Project Procedures

Following is a description of the individual tasks that will be performed as part of this project.

3.1. Software and Database optimization

ADS and Innovyze InfoNet Software technicians and engineers will continue to provide onsite and telephone support for the system and the database. ADS will aid in the customization of the system onsite to optimize the transfer of information from other WPC sewer maintenance databases and GIS system currently used for CMOM management and reporting. The objective is to make InfoNet the consolidation receptacle for current sewer operation and repair information contained in



various databases and software, allowing the information to be viewed through the InfoNet system's GIS interface. The system will also be configured for reporting, analysis and user query purposes. The optimization and customization will utilize Innovyze Software technicians on location in Huntsville in an effort to achieve successful results as efficiently as possible within the City's computer network.

3.2. Support

Support for the system will be ongoing and provided by both local ADS engineers and technicians and Innovyze Software experts. Support on use, configuration and reporting will be available on demand.

3.3. Licenses and yearly license support

Support agreements for each WPC InfoNet license will be provided to make support available to each individual using the system via a toll free support line from Innovyze Software. The support agreements also provide for no charge upgrades to the system as they are released by the manufacturer. Licenses and support are in effect until April 1, 2012 and with this extension they will be extended to April 1, 2013.

4. Pricing

Item Description	Unit Price	Estimated Quantity	<u>Price</u>
One year InfoNet USER license support for the City's use	\$2,575.00	1 ea.	\$2,575.00
One year InfoNet VIEWER license support per license for the City's use	\$925.00	4 ea.	\$3,700.00
On site system configuration and Customization by Innovyze Software and ADS technicians and engineers	\$21,610/ 3 days	s 3 days	\$21,610.00
Ongoing support by ADS engineers and technicians	\$192.00 / hr.	500 hours	\$96,000.00
Maximum estimated Total			\$123,885.00



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Att 2 - Pg 1 of 2 - 03/22/12 ATTACHMENT 2 - ALABAMA IMMIGRATION ACT - REPORT OF OWNERSHIP FORM

CITY OF HUNTSVILLE, ALABAMA REPORT OF OWNERSHIP FORM *

A.	General Information. Please provide the following information:				
	Legal name: \\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\				
	■ Doing business as (if applicable): <u>ADS Environmental Services</u>				
	City of Huntsville current taxpayer identification number (if one has been assigned):				
В.	Type of Ownership. Indicate the form of ownership by checking the appropriate box below:				
	□ Sole Proprietor				
	☐ Partnership				
	☐ Limited Partnership				
	☐ Limited Liability Partnership (LLP) (Articles of Organization)				
	☐ Corporation (Articles of Incorporation)				
	X Limited Liability Company (LLC) - Single Member (Articles of Organization)				
	☐ Limited Liability Company (LLC) – Multi-Member (Articles of Organization)				
	Other, please explain				
C.	Proof of Ownership. For each business entity, you <u>may</u> be required to provide proof of ownership by submitting a copy of the <u>recorded</u> formation documents referenced above. You shall be required to provide such documents if you cannot provide the entity i.d. number specified in paragraph D below.				
D.	Immigration Law. Please note that each owner who is an individual, including an individual who is a sole proprietor, a partner in a partnership, a general partner in a limited partnership, a partner in a non-registered limited liability partnership, or a sole member of a single member limited liability company, must provide proof of U.S. Citizenship or lawful alien presence in accordance with Ala. Act 2011-535. In the case of any form of a partnership, please provide a copy of the Partnership Agreement or other appropriate documentation evidencing the names of each individual who is a partner in the partnership.				
Е.	Corporate Registration or Other Business Type Entity I.D. Number.				
	If a domestic entity registered with the Alabama Secretary of State, provide the state assigned entity i.d. number:				

^{*} Please note that failure to complete this form may result in a delay in the ability to issue your license and may result in penalties for late

If a foreign entity (incorporated or organized outside of Alabama) and registered with the Alabama Secretary of State, provide the state issued entity i.d. number:
If a foreign entity (incorporated or organized outside of Alabama) and the entity is not registered with the Alabama Secretary of State, provide the entity i.d. number (or other similar number by whatever named called) assigned by the state of incorporation or organization:

ATTACHMENT 3 E-VERIFY AFFIDAVIT & MOU

FORM FOR SECTIONS 9 (a) and (b) BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT; CODE OF ALABAMA, SECTIONS 31-13-9 (a) and (b)

AFFIDAVIT FOR BUSINESS ENTITY/EMPLOYER /CONTRACTOR

(To be completed as a condition for the award of any contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees)

State of Alabama	
County of Madison	
Before me, a notary public, personally appeared Vickie Gesellschap	(print name)
who, being duly sworn, says as follows:	
As a condition for the award of any contract, grant, or incentive by the State of Al	labama, any political
subdivision thereof, or any state-funded entity to a business entity or employer the	hat employs one or
more employees, I hereby attest that in my capacity as Asst. Secretary	(state
position) for ADS LLC	_ (state business
entity/employer/contractor name) that said business entity/employer/contractor employ, hire for employment, or continue to employ an unauthorized alien. I further attest that said business entity/employer/contractor is enrolled in the E-(ATTACH DOCUMENTATION ESTABLISHING THAT BUSINESS ENTITY/EMPLOYER/CO	Verify program.
ENROLLED IN THE E-VERIFY PROGRAM)	
Wicke Hese Clacks Signature of Affiant	
Sworn to and subscribed before me this 6 day of March	, 2 <u>012</u> .
I certify that the affiant is known (or made known) to me to be the identical party	he or she claims to be.
Calculant Weltar Signature and Seal of Notary Pu	ıblic

NOTARY PUBLIC STATE OF ALABAMA AT LARGE MY COMMISSION EXPIRES: Feb 3, 2015 BONDED THRU NOTARY PUBLIC UNDERWRITERS





THE E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION MEMORANDUM OF UNDERSTANDING FOR EMPLOYERS USING A DESIGNATED AGENT

ARTICLE I

PURPOSE AND AUTHORITY

This Memorandum of Understanding (MOU) sets forth the points of agreement between the Department of Homeland Security (DHS), ADS LLC (Employer), and Lookout Services (Designated Agent) regarding the Employer's and Designated Agent's participation in the Employment Eligibility Verification Program (E-Verify). This MOU explains certain features of the E-Verify program and enumerates specific responsibilities of DHS, the Social Security Administration (SSA), the Employer, and the Designated Agent. References to the Employer include the Designated Agent when acting on behalf of the Employer. E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of the Employment Eligibility Verification Form (Form I-9). For covered government contractors, E-Verify is used to verify the employment eligibility of all newly hired employees and all existing employees assigned to Federal contracts.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). Authority for use of the E-Verify program by Federal contractors and subcontractors covered by the terms of Subpart 22.18, "Employment Eligibility Verification", of the Federal Acquisition Regulation (FAR) (hereinafter referred to in this MOU as a "Federal contractor") to verify the employment eligibility of certain employees working on Federal contracts is also found in Subpart 22.18 and in Executive Order 12989, as amended.

ARTICLE II

FUNCTIONS TO BE PERFORMED

A. RESPONSIBILITIES OF SSA

- SSA agrees to provide the Employer (through the Designated Agent) with available information that will allow the Employer to confirm the accuracy of Social Security Numbers provided by all employees verified under this MOU and the employment authorization of U.S. citizens.
- SSA agrees to provide the Employer and Designated Agent appropriate assistance
 with operational problems that may arise during the Employer's participation in EVerify. SSA agrees to provide the Designated Agent with names, titles, addresses,
 and telephone numbers of SSA representatives to be contacted during the E-Verify
 process.





- 3. SSA agrees to safeguard the information provided by the Employer through the E-Verify program procedures, and to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security Numbers and for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).
- 4. SSA agrees to provide a means of automated verification that is designed (in conjunction with DHS's automated system if necessary) to provide confirmation or tentative nonconfirmation of U.S. citizens' employment eligibility within 3 Federal Government work days of the initial inquiry.
- 5. SSA agrees to provide a means of secondary verification (including updating SSA records as may be necessary) for employees who contest SSA tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of U.S. citizens' employment eligibility and accuracy of SSA records for both citizens and aliens within 10 Federal Government work days of the date of referral to SSA, unless SSA determines that more than 10 days may be necessary. In such cases, SSA will provide additional verification instructions.

B. RESPONSIBILITIES OF DHS

- After SSA verifies the accuracy of SSA records for aliens through E-Verify, DHS
 agrees to provide the Employer (through the Designated Agent) access to selected
 data from DHS's database to enable the Employer (through the Designated Agent) to
 conduct, to the extent authorized by this MOU:
 - Automated verification checks on alien employees by electronic means, and
 - Photo verification checks (when available) on employees.
- 2. DHS agrees to provide to the Employer and Designated Agent appropriate assistance with operational problems that may arise during the Employer's participation in E-Verify. DHS agrees to provide the Designated Agent names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.
- 3. DHS agrees to provide to the Employer (through the Designated Agent), the E-Verify User Manual containing instructions on E-Verify policies, procedures and requirements for both SSA and DHS, including restrictions on the use of E-Verify. DHS agrees to provide training materials on E-Verify.
- 4. DHS agrees to provide to the Employer (through the Designated Agent) a notice, which indicates the Employer's participation in the E-Verify program. DHS also agrees to provide to the Employer (through the Designated Agent) anti-discrimination





notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.

- 5. DHS agrees to issue the Designated Agent a user identification number and password that will be used exclusively by the Designated Agent, on behalf of the Employer, to verify information provided by alien employees with DHS's databases.
- 6. DHS agrees to safeguard the information provided to DHS by the Employer (through the Designated Agent), and to limit access to such information to individuals responsible for the verification of alien employment eligibility and for evaluation of the E-Verify program, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security Numbers and employment eligibility, to enforce the Immigration and Nationality Act (INA) and Federal criminal laws, and to administer Federal contracting requirements.
- 7. DHS agrees to provide a means of automated verification that is designed (in conjunction with SSA verification procedures) to provide confirmation or tentative nonconfirmation of employees' employment eligibility within 3 Federal Government workdays of the initial inquiry.
- 8. DHS agrees to provide a means of secondary verification (including updating DHS records as may be necessary) for employees who contest DHS tentative nonconfirmations and photo non-match tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

C. RESPONSIBILITIES OF THE EMPLOYER

- 1. The Employer agrees to display the notices supplied by DHS (through the Designated Agent) in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system.
- The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted regarding E-Verify.
- The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual. The Employer will obtain the E-Verify User Manual from the Designated Agent.
- 4. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:





- If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 1-888-464-4218.
- If an employee presents a DHS Form I-551 (Permanent Resident Card) or Form I-766 (Employment Authorization Document) to complete the Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The employer will use the photocopy to verify the photo and to assist DHS with its review of photo non-matches that are contested by employees. Note that employees retain the right to present any List A, or List B and List C, documentation to complete the Form I-9. DHS may in the future designate other documents that activate the photo screening tool.
- 5. The Employer understands that participation in E-Verify does not exempt the Employer from the responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures, except for the following modified requirements applicable by reason of the Employer's participation in E-Verify: (1) identity documents must have photos, as described in paragraph 4 above; (2) a rebuttable presumption is established that the Employer has not violated section 274A(a)(1)(A) of the immigration and Nationality Act (INA) with respect to the hiring of any individual if it obtains confirmation of the identity and employment eligibility of the individual in compliance with the terms and conditions of E-Verify; (3) the Employer must notify DHS if it continues to employ any employee after receiving a final nonconfirmation, and is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) the Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A) if the Employer continues to employ an employee after receiving a final nonconfirmation; and (5) no person or entity participating in E-Verify is civilly or criminally liable under any law for any action taken in good faith based on information provided through the confirmation system. DHS reserves the right to conduct Form I-9 compliance inspections during the course of E-Verify, as well as to conduct any other enforcement activity authorized by law.
- 6. The Employer agrees to initiate E-Verify verification procedures (through the Designated Agent), for new employees within 3 Employer business days after each employee has been hired (but after both sections 1 and 2 of the Form I-9 have been completed), and to complete as many (but only as many) steps of the E-Verify process as are necessary according to the E-Verify User Manual. The Employer is prohibited from initiating verification procedures before the employee has been hired and the Form I-9 completed. If the automated system to be queried is temporarily unavailable, the 3-day time period is extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the





period of unavailability. In all cases, the Employer (through the Designated Agent), must use the SSA verification procedures first, and use DHS verification procedures and photo screening tool only after the SSA verification response has been given. Employers may initiate verification, through the Designated Agent, by notating the Form I-9 in circumstances where the employee has applied for a Social Security Number (SSN) from the SSA and is waiting to receive the SSN, provided that the Employer (through the Designated Agent) performs an E-Verify employment verification query using the employee's SSN as soon as the SSN becomes available.

- 7. The Employer agrees not to use E-Verify procedures for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use not authorized by this MOU. Employers must use E-Verify (through its Designated Agent) for all new employees, unless an Employer is a Federal contractor that qualifies for the exceptions described in Article II.D.1.c. Except as provided in Article II.D. the Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. The Employer understands that if the Employer uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its access to SSA and DHS information pursuant to this MOU.
- 8. The Employer (through its Designated Agent) agrees to follow appropriate procedures (see Article III. below) regarding tentative nonconfirmations, including notifying employees of the finding, providing written referral instructions to employees, allowing employees to contest the finding, and not taking adverse action against employees if they choose to contest the finding. Further, when employees contest a tentative nonconfirmation based upon a photo non-match, the Employer is required to take affirmative steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.
- 9. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(I)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo non-match, does not establish, and should not be interpreted as evidence, that the employee is not work authorized. In any of the cases listed above, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status (including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, refusing to assign the employee to a Federal contract or other assignment, or otherwise subjecting an employee to any assumption that he or she is unauthorized to work, or otherwise mistreating an employee) until and unless





secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo non-match or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 or OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

- 10. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA by not discriminating unlawfully against any individual in hiring, firing, or recruitment or referral practices because of his or her national origin or, in the case of a protected individual as defined in section 274B(a)(3) of the INA, because of his or her citizenship status. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the unfair immigration-related employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).
- 11. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.
- 12. The Employer agrees that it will use the information it receives from SSA or DHS (through the Designated Agent) pursuant to E-Verify and this MOU only to confirm the employment eligibility of employees as authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords) to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.
- 13. The Employer acknowledges that the information which it receives through the Designated Agent from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)), and that any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.
- 14. The Employer agrees to cooperate with DHS and SSA in their compliance





monitoring and evaluation of E-Verify, including by permitting DHS and SSA, upon reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a timely and accurate manner to DHS requests for information relating to their participation in E-Verify.

D. RESPONSIBILITIES OF FEDERAL CONTRACTORS

- 1. The Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801) in addition to verifying the employment eligibility of all other employees required to be verified under the FAR. Once an employee has been verified through E-Verify by the Employer, the Employer may not reverify the employee through E-Verify.
 - a. Federal contractors not enrolled at the time of contract award: An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to use E-Verify to initiate verification of employment eligibility of new hires of the Employer who are working in the United States, whether or not assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within 3 business days after the date of hire. Once enrolled in E-Verify as a Federal contractor, the Employer must initiate verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.
 - b. Federal contractors already enrolled at the time of a contract award: Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to initiate verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within 3 business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must initiate verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.
 - c. Institutions of higher education, State, local and tribal governments and

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sureties: Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), State or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. The provisions of Article II, part D, paragraphs 1.a and 1.b of this MOU providing timeframes for initiating employment verification of employees assigned to a contract apply to such institutions of higher education, State, local, tribal governments, and sureties.

- d. Verification of all employees: Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to do so only in the manner designated by DHS and initiate E-Verify verification of all existing employees within 180 days after the election.
- Form I-9 procedures for Federal contractors: The Employer (through its e. Designated Agent), may use a previously completed Form I-9 as the basis for initiating E-Verify verification of an employee assigned to a contract as long as that Form I-9 is complete (including the SSN), complies with Article II.C.4, the employee's work authorization has not expired, and the Employer has reviewed the information reflected in the Form I-9 either in person or in communications with the employee to ensure that the employee's stated basis in section 1 of the Form I-9 for work authorization has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen). If the Employer is unable to determine that the Form I-9 complies with Article II.C.4, if the employee's basis for work authorization as attested in section 1 has expired or changed, or if the Form I-9 contains no SSN or is otherwise incomplete, the Employer shall complete a new I-9 consistent with Article II.C.4, or update the previous I-9 to provide the necessary information. If section 1 of the Form I-9 is otherwise valid and upto-date and the form otherwise complies with Article II.C.4, but reflects documentation (such as a U.S. passport or Form I-551) that expired subsequent to completion of the Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.C.4, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual. Nothing in this section shall be construed to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU, or to authorize verification of any existing employee by any Employer that is not a Federal contractor.





2. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

E. RESPONSIBILITIES OF THE DESIGNATED AGENT

- The Designated Agent agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Designated Agent representatives who will be accessing information under E-Verify.
- 2. The Designated Agent agrees to become familiar with and comply with the E-Verify User Manual and provide a copy of the manual to the Employer so that the Employer can become familiar with and comply with E-Verify policy and procedures.
- 3. The Designated Agent agrees that any Designated Agent Representative who will perform employment verification queries will complete the E-Verify Tutorial before that individual initiates any queries.
 - A. The Designated Agent agrees that all Designated Agent representatives will take the refresher tutorials initiated by the E-Verify program as a condition of continued use of E-Verify, including any tutorials for Federal contractors if the Employer is a Federal contractor.
 - B. Failure to complete a refresher tutorial will prevent the Designated Agent and Employer from continued use of the program.
- 4. The Designated Agent agrees to obtain the necessary equipment to utilize E-Verify.
- 5. The Designated Agent agrees to provide the Employer with the notices described in Article II.B.4 above.
- 6. The Designated Agent agrees to initiate E-Verify procedures on behalf of the Employer in accordance with the E-Verify Manual and E-Verify Web-Based Tutorial. The Designated Agent will query the automated system using information provided by the Employer and will immediately communicate the response back to the Employer. If the automated system to be queried is temporarily unavailable, the 3-day time period is extended until it is again operational in order to accommodate the Designated Agent's attempting, in good faith, to make inquiries on behalf of the Employer during the period of unavailability. In all cases, the Designated Agent will use the SSA verification procedures first, and will use DHS verification procedures only as directed by the SSA verification response.
- The Designated Agent agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, including by permitting DHS and SSA, upon





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reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the use of E-Verify, and to respond in a timely and accurate manner to DHS requests for information relating to their participation in E-Verify.

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

- If the Employer receives a tentative nonconfirmation issued by SSA, the Employer
 must print the tentative nonconfirmation notice as directed by the automated system
 and provide it to the employee so that the employee may determine whether he or
 she will contest the tentative nonconfirmation.
- 2. The Employer will refer employees to SSA field offices only as directed by the automated system based on a tentative nonconfirmation, and only after the Employer records the case verification number, reviews the input to detect any transaction errors, and determines that the employee contests the tentative nonconfirmation. The Employer (through the Designated Agent), will transmit the Social Security Number to SSA for verification again if this review indicates a need to do so. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.
- 3. If the employee contests an SSA tentative nonconfirmation, the Employer will provide the employee with a system-generated referral letter and instruct the employee to visit an SSA office within 8 Federal Government work days. SSA will electronically transmit the result of the referral to the Employer (through the Designated Agent) within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.
- 4. The Employer agrees not to ask the employee to obtain a printout from the Social Security Number database (the Numident) or other written verification of the Social Security Number from the SSA.

B. REFERRAL TO DHS

- If the Employer receives a tentative nonconfirmation issued by DHS, the Employer
 must print the tentative nonconfirmation notice as directed by the automated system
 and provide it to the employee so that the employee may determine whether he or
 she will contest the tentative nonconfirmation.
- 2. If the Employer finds a photo non-match for an employee who provides a document for which the automated system has transmitted a photo, the employer must print the





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photo non-match tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the finding.

- 3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation received from DHS automated verification process or when the Employer issues a tentative nonconfirmation based upon a photo non-match. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.
- 4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will provide the employee with a referral letter and instruct the employee to contact DHS through its toll-free hotline (as found on the referral letter) within 8 Federal Government work days.
- 5. If the employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will provide the employee with a referral letter to DHS. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.
- 6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo non-match, the Employer (or the Designated Agent) will send a copy of the employee's Form I-551 or Form I-766 to DHS for review by:
 - Scanning and uploading the document, or
 - Sending a photocopy of the document by an express mail account (furnished and paid for by DHS).
- 7. The Employer understands that if it cannot determine whether there is a photo match/non-match, the Employer is required to forward the employee's documentation to DHS by scanning and uploading, or by sending the document as described in the preceding paragraph, and resolving the case as specified by the Immigration Services Verifier at DHS who will determine the photo match or non-match.

ARTICLE IV

SERVICE PROVISIONS

The SSA and DHS will not charge the Employer or the Designated Agent for verification services performed under this MOU. DHS is not responsible for providing the equipment needed to make inquiries. A personal computer with Internet access is needed to access the E-Verify System.

ARTICLE V





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PARTIES

- This MOU is effective upon the signature of all parties, and shall continue in effect for as A. long as the SSA and DHS conduct the E-Verify program unless modified in writing by the mutual consent of all parties, or terminated by any party upon 30 days prior written notice to the others. Any and all system enhancements to the E-Verify program by DHS or SSA, including but not limited to the E-Verify checking against additional data sources and instituting new verification procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes. DHS agrees to train employers on all changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take mandatory refresher tutorials. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such a circumstance, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, that Employer will remain a participant in the E-Verify program, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.
- B. Notwithstanding Article V, part A of this MOU, DHS may terminate access to E-Verify if it is deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Designated Agent or the Employer, or a failure on the part of either to comply with established procedures or legal requirements. The Employer understands that if the Employer is a Federal contractor, termination of this MOU by any party for any responsibilities.
- C. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as they may determine necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.
- D. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Designated Agent, the Employer, or their agents, officers, or employees.
- E. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Designated Agent or the Employer and any other person or entity regarding the applicability of Section 403(d) Employer.

E-Verify



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- F. Participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).
- G. The foregoing constitutes the full agreement on this subject between DHS, the Employer and the Designated Agent.

<u>ADS LLC</u> (Employer) hereby designates and appoints <u>Lookout Services</u> (Designated Agent), including its officers and employees, as the Designated Agent for the purpose of carrying out <u>ADS LLC</u> (Employer) responsibilities under the MOU between the Employer, the Designated Agent, and DHS.

The Individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer, the Designated Agent and DHS respectively.

If you have any questions, contact E-Verify at 1-888-464-4218.

www.dha.gov/E-Verify

Employer ADS LLC	Vice President o	f Financ
Signature / Pro	Vice President of Tilla 6-5-09 Date	
Designated Agent Lookout Services		
Debble Marshall Name (Please Type or Print)	Title	
Electronically Signed	08/04/2009	
Signature	Data	
		· · · · · · · · · · · · · · · · · · ·
Name (Please Type or Print) Signature	Title Date	
Name (Please Type or Prini) Signature	Title . Date	
Signature		

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Information Required For the E-Verify Designated Agent Program

Information relating to your Company:

Company Name	: ADS LLC	
Company Facility Address	4940 Research Drive	
	Huntsville, AL 35758	
County or Parish:	MADISON	
Employer identification Number:	800355805	
North American Industry Classification Systems Code:	662	
Parent Company:	DEX Corporation	
Number of Employees:	00 to 499	

ATTACHMENT 4 CITY OF HUNTSVILLE STANDARDS AND DESIGN GUIDES

- 1. City of Huntsville Standard Specifications for Construction of Public Improvements. Contract Projects, 1991.
- 2. City of Huntsville Engineering Standards, 1991.
- 3. City of Huntsville Design and Acceptance Manual for Force Mains and Pump Stations, 2011.
- 4. City of Huntsville Design and Acceptance Manual for Sanitary Sewers, 2011.
- 5. Alabama Department of Transportation Standard Specifications for Highway Construction, Current Edition.
- 6. City of Huntsville Subdivision Regulations, 1991.

ATTACHMENT 5 DESIGN REVIEWS

Omitted

ATTACHMENT 6 - ENGINEERS PERSONNEL FEE SCHEDULE



1300 Meridian Street, Suite 3000. • Huntsville, Alabama 30801 PHONE: 256.430.6494 • FAX: 256.430.6494

www.adsenv.com

A DIVISION OF ADS LLC

Hourly Rates for Key Personnel

Principle Engineer \$127.00/hour
Project Manager \$116.00/hour
Project Engineer \$83.00/hour
Field Manager \$83.00/hour
Data Entry Clerk \$25.00/hour

These rates will remain in effect through the duration of the contract

ATTACHMENT 7 - PROGRESS REPORT (Article 8)

PROGRESS REPORT NO.	FOR MONTH AND YEAR	R	
PROJECT		PROJECT NO.	
DATE CITY'S PROJE	CT ENGINEER	· · · · · · · · · · · · · · · · · · ·	
CONSULTANT	CONSULTANT'S PR	OJ. MAN.	
COMPLIANCE SCHEDULE:			
MONTHLY SUBMITTALS:			
CURRENT MONTH % COMPLETE:	PREV. MONTH	% COMPLETE:	
ATTACH A "SHOULD HAVE STARTED MICROSOFT PROJECTS THAT LISTS			
ATTACH A "TASKS STARTING SOON THIRTY (30) DAYS AFTER THE DATE		D <u>SOFT PROJECTS</u> WITH A DATE RANGE EPORT.	E OF
STATE WHAT ACTION IS BEING TAK	EN TO BRING PROJECT	BACK TO SCHEDULE:	
MILESTONE SUBMITTALS 30% 60% 90% 100% "FINAL" INVOICE SUBMITTED SUBCONSULTANTS PAID IN FULL CONTRACTED COMPLETION DATE:	SCHEDULED DATE	ACTUAL DATE	
(The scheduled dates above for milesto contract change order. These schedule Engineer and noted monthly on each pr	d dates shall be agreed up	nge unless a contract modification is justifie pon at beginning of project with the Project	ed by
UPDATED SCHEDULE ATTACHED?	YESNO		
COMMENTS:			
without a contract modification.	-	duled completion dates will not be extende	d
CERTIFICATION: I certify that the state	a iniormation is true and a	accurate to the best of my Knowledge.	
CONSULTANT DATE	CITY PPO IE	CT ENGINEER DATE	

ATTACHMENT 8 - SUB CONSULTANTS ENGAGED BY THE ENGINEER (Article 9.2)

CONSULTANT NAME AND ADDRESS	DESCRIPTION OF SERVICES	FEE
	N/A	
	SUB-TOTAL	
	5% Administrative Fee	
	TOTAL	

ATTACHMENT 9 - CONTRACT DOCUMENT REQUIREMENTS LIST

REQUIREMENT	SUBMIT TO	SUBMITTAL REQUIREMENT DATE	NUMBER OF COPIES	REFERENCE SECTION OF CONTRACT AND COMMENTS	
Deviations from OWNER's standards.	OWNER	Prior to incorporating deviations.	N/A	Article 2.5	
Products or materials specified by the ENGINEER that are available from only one source.	OWNER	Prior to 100% submittal.	N/A	Article 2.2	
Approval of contractor's Request for Payment.	OWNER	Within ten (10) days of receipt of the request from the contractor.	N/A	Article 3.4	
Approval of contractor submittals	OWNER	So as to cause no delay to the contractor or the PROJECT.	N/A	Article 3.8	
Change order changes that reduce construction requirements.	OWNER	Prior to authorizing a change.	N/A	Article 3.11	
Any information pertaining to any claim.	OWNER	Immediately	2	Article 3.12	
Information pertinent to the PROJECT, all criteria and full information as to OWNER's requirements, copies of all design and construction standards.	ENGINEER	So as to not delay the services of the ENGINEER.	2	Article 5.1, 5.2	
Notification of delays.	ENGINEER; OWNER	Promptly	4	Article 6.1	
ENGINEER's monthly invoices.	OWNER	Monthly	4	Article 8.1.1	
Consultant progress report.	OWNER	Monthly	4	Article 8.1.1	
Records, data, parameters, design calculations and other information.	OWNER	Cancellation of contract.	2	Article 9.7	
Documentation, records of reimbursable expenses, record copies of all written communications, and any memoranda of verbal communications related to the PROJECT.	OWNER	Upon notice from the OWNER.	2	Article 9.4	
Termination notification.	OWNER or ENGINEER	7 days prior to termination.	2	Article 9.10 & 9.11	
Certificate of Insurance for ENGINEER.	OWNER	At 0% design conference	1	Article 10.2(B), 10.6, and Attachment 5.	

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Insurance cancellation, suspension, or reduction in coverage or limits.	OWNER	30 days prior to effective date except for cancellation which is 10 days notification.	1	Article 10.4(A)
Certificate of insurance for sub consultants/subcontractors.	OWNER	At 0% design conference.	1	Article 10.7
Real Estate Deliverables	Project Engineer	60% design review, 90% review, 100% complete.	Reference Real Estate Division Plan Requirements	Attachment 5, 15 Real Estate Plan Requirements at end of this proposal document

ATTACHMENT 10 - REQUIREMENTS FOR DOCUMENT SUBMITTALS

All drawings shall be sized 24" x 36", unless otherwise approved by the OWNERS Project Engineer.

Title blocks shall as a minimum, contain the name of the project, date, city project number, and ENGINEER's name. The title block of drawings shall contain a space for the names of the preparer and the reviewer and/or checker. These blocks shall be signed on each submittal (See Attachment "12" for sample standard drawing format). Drawings shall contain alphanumeric revision designations. Drawings issued for review shall be issued with alpha revision designation and the revision letter shall be changed for each submittal containing drawing changes. Drawings issued for construction shall be issued with numeric designation at revision level "0" and described as "Issued for Construction" in the revision description block. Subsequent drawing changes require the revision level to be raised using successively higher numbers and the changes to be marked by circling and briefly described in a revision block.

Unless otherwise specified by the Owners Project Engineer, all drawings for review submittals shall be full or half-size copies. All documents shall be clearly marked in a revision block indicating the applicable submittal milestone, i.e. 30%, 60%, 90%, etc.

Submittals required by the State of Alabama for their review, bidding, etc., shall be of the size, form and numbers of copies as the state may require even though such submittals may differ from the submittals set forth as being required elsewhere in this Agreement.

All drawings shall be prepared in Micro station .DGN format, unless otherwise approved by the OWNERS Project Engineer. Transmittal letters shall consist of a list of files being submitted, a description of the data in each file, and a level/layer schematic of each design file. DGN design files shall have working units as follows: master units in feet, no sub-units, and 1,000 positional units. All data submitted shall use NAD 1983 Alabama East Zone coordinates as described in The Code of Alabama (1975), section 35-2-1 and NGVD 1929.

Digital files shall be submitted by 4-3/4" CD ROM, DVD, 3 and 1/2 inch floppy disk, or to the City of Huntsville F.T.P. site.

All print copies shall be first generation copies.

All text documents shall be prepared in Microsoft Word format.

All spreadsheets shall be in Microsoft Excel format.

Bar chart schedules shall be in Microsoft Projects format, unless otherwise approved by the OWNERS Project Engineer.

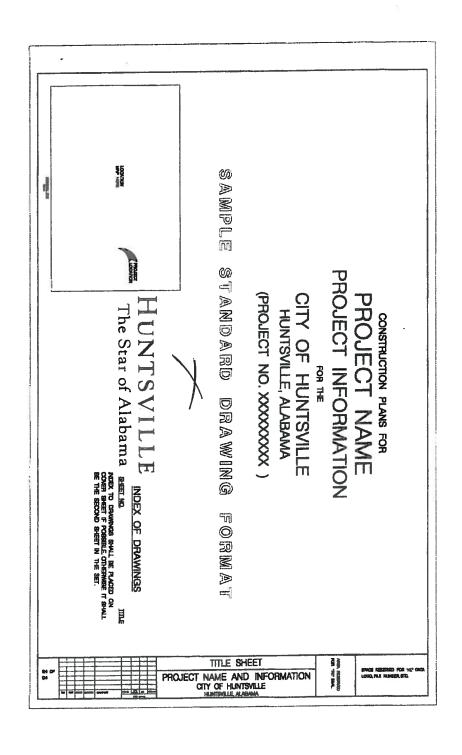
Aerial photography files shall be in Intergraph (.COT) or (.tiff) format.

All mapping shall meet National Map Accuracy Standards unless otherwise noted. If National Map Accuracy Standards are not met, the accuracy of the map shall be identified to the Owners Project Engineer and on the maps derived from the aerial survey. National Map Accuracy Standards are shown below. This and other map standards are shown in Department of the Army, US Army Corps of Engineers standard, "EM 1110-1-1000, Engineering and Design - Photogrammetric Mapping". http://www.usace.army.mil/inet/usace-docs/eng-manuals/em1110-1-1000/toc.htm

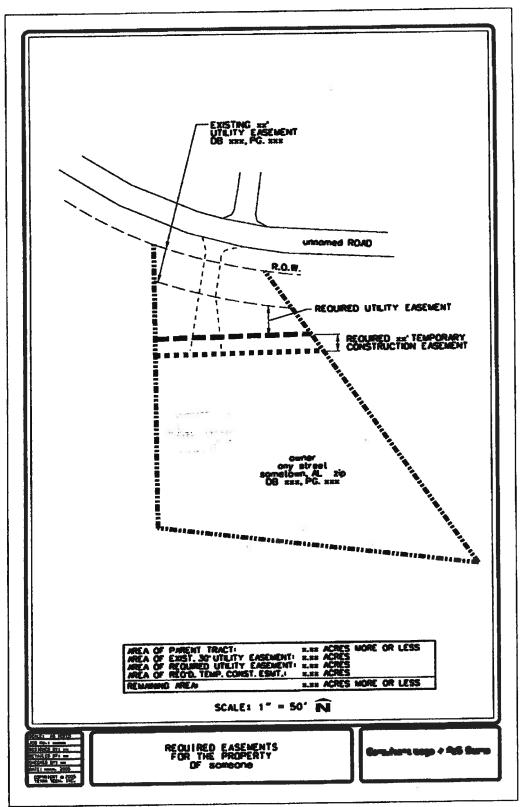
ATTACHMENT 11 - UTILITY PROJECT NOTIFICATION FORM

NAME:	_
NAME:(Utility Name)	
PROJECT NAME:	PROJECT NUMBER:
CONSULTING ENGINEER:(Name)	
ENGINEERING REPRESENTATIVE	PHONE:
I have reviewed design drawings or of	ther information as available, and:
DO	DO NOT
have facilities that will require relocation. If recalendar days from the Notice to Proceed, is	elocation is required, a construction duration of anticipated to be required for relocation.
LIST NAME(S) OF OTHER UTILITY(S) that sha starting your work:	are poles or facilities that have to be relocated prior to <u>YOU</u>
NAME OF UTILITY:	
NAME OF UTILITY:	
NAME OF UTILITY:	
OTHER:	
COMMENTS:	
BY:	
BY:AUTHORIZED REPRESENTATIVE	
FIELD CONTACT PERSON: OFFICE CONTACT PERSON:	PHONE:
OFFICE CONTACT PERSON:	PHONE:
DATE:	

ATTACHMENT 12



ATTACHMENT 13 SAMPLE



...\easementtemplate_V7.dgn 3/17/2006 12:11:14 PM

ATTACHMENT 14

United States National Map Accuracy Standards

With a view to the utmost economy and expedition in producing maps which fulfill not only the broad needs for standard or principal maps, but also the reasonable particular needs of individual agencies, standards of accuracy for published maps are defined as follows:

- 1. Horizontal accuracy. For maps on publication scales larger than 1:20,000, not more than 10 percent of the points tested shall be in error by more than 1/30 inch, measured on the publication scale; for maps on publication scales of 1:20,000 or smaller, 1/50 inch. These limits of accuracy shall apply in all cases to positions of well-defined points only. Well-defined points are those that are easily visible or recoverable on the ground, such as the following: monuments or markers, such as bench marks, property boundary monuments; intersections of roads, railroads, etc.; corners of large buildings or structures (or center points of small buildings); etc. In general what is well defined will be determined by what is plottable on the scale of the map within 1/100 inch. Thus while the intersection of two road or property lines meeting at right angles would come within a sensible interpretation, identification of the intersection of such lines meeting at an acute angle would obviously not be practicable within 1/100 inch. Similarly, features not identifiable upon the ground within close limits are not to be considered as test points within the limits quoted, even though their positions may be scaled closely upon the map. In this class would come timber lines, soil boundaries, etc.
- 2. **Vertical accuracy,** as applied to contour maps on all publication scales, shall be such that not more than 10 percent of the elevations tested shall be in error more than one-half the contour interval. In checking elevations taken from the map, the apparent vertical error may be decreased by assuming a horizontal displacement within the permissible horizontal error for a map of that scale.
- 3. The accuracy of any map may be tested by comparing the positions of points whose locations or elevations are shown upon it with corresponding positions as determined by surveys of a higher accuracy. Tests shall be made by the producing agency, which shall also determine which of its maps are to be tested, and the extent of the testing.
- 4. **Published maps meeting these accuracy requirements** shall note this fact on their legends, as follows: "This map complies with National Map accuracy Standards."
- 5. **Published maps whose errors exceed those aforestated** shall omit from their legends all mention of standard accuracy.
- 6. When a published map is a considerable enlargement of a map drawing (manuscript) or of a published map, that fact shall be stated in the legend. For example, "This map is an enlargement of a 1:20,000-scale map drawing," or "This map is an enlargement of a 1:24,000-scale published map."
- 7. To facilitate ready interchange and use of basic information for map construction among all Federal mapmaking agencies, manuscript maps and published maps, wherever economically feasible and consistent with the uses to which the map is to be put, shall conform to latitude and longitude boundaries, being 15 minutes of latitude and longitude, or 7.5 minutes, or 3-3/4 minutes in size.

U.S. BUREAU OF THE BUDGET

ATTACHMENT 15 ENGINEERING DEPARTMENT - REAL ESTATE DIVISION PLAN REQUIREMENTS

DRAWINGS:

Individual Parcels

- Each individual parcel 8 1/2" x 14" (dgn or dxf format)
- **Show Calculations**
 - \triangleright Before
 - After
 - **Taking**
- All Parcels shall be closed shapes (polygons).
- Show Existing and Proposed Right-of-Way on each individual parcel map.
- **Property Ownership**

Overall Project Land Acquisition Maps

- Total project drawing in dgn or dxf format
- Indicate the following:
 - > Stationing on Centerline
 - > Existing Right-of-Way
 - Proposed Right-of-Way
 - > Existing Easements
 - > Proposed Easements
 - > Existing Pavement
 - > Proposed Pavement/Sidewalks/Structures
 - > Existing Structures
 - > Property Ownership

Color Standards	(SAMPLE)	
	- · · · · · · · · · · · · · · · · · · ·	

Description	<u>Color</u>	Line Style	<u>Type</u>
Existing ROW	Red	Medium Dashed	
Proposed ROW	Red	Solid	Closed Polygon
Existing Easements	Orange	Medium Dashed	
Proposed Easements	Orange	Solid	Closed Polygon
TCĖ	Pink	Solid	Closed Polygon

DESCRIPTIONS:

- Microsoft Word on 3.5" Diskette or CD
- Each Description shall be complete and independent (separate file).
- Hard Copies signed and stamped by PLS.

GENERAL:

- P.K. Nails or other permanent stationing markings shall be required.
- Re-staking of right-of-way or easements may be required (see Article 4).
- All survey plats to be on Alabama State Plane Datum. Strip Maps shall indicate at least 2 monuments in place with Alabama State Plane Coordinate values shown on each.
- Parcel plats and legal descriptions shall indicate the Alabama State Plane Coordinate NAD 1983 Alabama East Zone Value of the point of beginning.

ATTACHMENT 16 - GIS BASE MAP

DESIGN	CONTENTS	LINE	COLOR	WEIGHT	TEXT	FONT	CELL
LEVEL	CONTENTS	l .	COLOR	WEIGHT		TON	l
LEVEL		CODE			SIZE		NAME
						!	
11	State Plane Coordinate Grid	0	0	0	20	0	
2	Benchmarks	0	0	0			
3	Private Street Text	0	105	0	20	0	
3	Street Text	0	3	0	20 (or 18)	0	
4	Street R/W	7	0	0			
5	Street Centerline	7	0	0			
6	Street Pavement	0	3	0	ļ <u>-</u>		
6	Proposed Street Pavement	3	16	0	ļ		
6	Private Streets	0	105	0			
6	Proposed Private Road	3	105	0	 		
7	Parking Lots Private Lots used as Roads	1	105	1			
8	Secondary RoadsPrivate	1 2	105	0			
8	Secondary Roads Secondary Roads	2	3	0			<u> </u>
8	Trails	3	3	0			
9	Secondary Roads/Trails Text	0	3	0	20	0	
10	Sidewalks	5	3	0	20		· · · · · · · · · · · · · · · · · · ·
11	Bridges/Culverts/Paved	0	0	0			· · · · · · · · · · · · · · · · · · ·
	Ditches						
12	Hydrology - Major	6	1	0			· · · · · · · · · · · · · · · · · · ·
12	Hydrology – Minor, Ditches	7	i	0			
13	Hydrology - Text	0	1	0	25	23	
14	Tailings & Quarries, Athletic	0	1	0			
	Fields/Text, misc. areas		-	_			
15	Greenways	3	48	0			
16	Speed Tables	0	3	0			TCALM
17	Railroad Tracks (Patterned)	0	2	0			RR
18	Railroad Text	0	2	0	25	0	
19	Railroad R/W	2	2	0			
20	Utility Poles (Cell)	0	5	0			P POLE
21	Utility Easements	3	5	0			
22	Utility Text	0	5	1			
23	Geographic Names	0	3	-			
24	Building Structures	0	0	0			
24	Pools and Text	0	1	0	10	1	
24	Future Site of Structures	2	0	0			STRUCT
24	Existing Structures (exact	2	0	0			STRCEX
	location and shape unknown)						
25	Property Lines/ refuge bdy.	6	6	1	30	1	
26	Cadastral Polygons	6	6	0			
27	Ownership Text	0	6	1	10	4:	
28	Cemeteries/Text	4	6	0	10	1	
29 30	Lot Numbers				25 30	0	<u> </u>
31	Block Numbers Addition Names	0	0	0	35	0	<u> </u>
32	Open Open	U	U	Ų	33	U	
33	Lot Ticks						
34	Lot Lines/Property Lines	6	6	0		· · · · · · · · · · · · · · · · · · ·	
35	Trees/Hedge Rows	0	6	0	AS=1		TREES
36	GPS Monuments	0	5	0	18	23	CONTRL
37	2° Topo Contour	U	<u> </u>	U	19	23	CONTRL
38	5' Topo Contour	0	7	0			
39	25' Major Topo Contour	0	7	0			
40	X Spot Elevation	0	7	0			
41	FEMA Monuments/Labels	0	3/0	0	18	1	FEMA
	I LIVIA IVIONUMENTS/LAUCIS	V	3/0		10	1	LEMA
42	Quarter Sections						

44	Features	0	2	0			
44	Cell Towers	0	12	0	AS=1		CELTWR
45	Fences (Pattern)	0	8	0	AS=1		FENCE
46	Format/Legend	0	0	0			Limleg Madleg
47	Mass Points	0	7	2			
48	Break Lines	0	7	2			
49	Open						
50	Billboards	0	37	1			BBOARD
51	Sanitary Sewer	0		3			
52	Sanitary Sewer Text						
53	Storm Water Features	0		3			
54	Storm Water Text						
55	Open						
56	Property Address	0	1	0			
57	Text Tag for Buildings	0	1	0	10-20	1	
58	One Way Arrows	1	3	1			
59	Open						
60	Open						
61	Open						
62	Monuments for Setup						
	(point cell)	<u> </u>					
63	Open						